

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

MARINE POLYMER TECHNOLOGIES, INC.,

Plaintiff,

v.

HEMCON, INC.,

Defendant.

Hon. Joseph A. DiClerico, Jr.

Civil Action No. 06-CV-100-JD

MARINE POLYMER'S RULE 59(e) MOTION TO AMEND THE JUDGMENT

NOW COMES the Plaintiff, Marine Polymer Technologies, Inc. ("Marine Polymer"), by its attorneys, and respectfully moves the Court pursuant to Fed. R. Civ. P. 59(e) to amend the judgment (Dkt. 446) to include damages for Defendant HemCon, Inc.'s ("HemCon") infringement from January 1, 2010 through the judgment, pre- and post-judgment interest, and post-judgment damages. In support of its motion, Marine Polymer states:

1. On September 22, 2010, this Court entered judgment (Dkt. 446) in favor of Marine Polymer in accordance with, inter alia, the jury's award to Marine Polymer of a reasonable royalty of \$29,410,246 for HemCon's infringement through December 31, 2009. A damages award for the period of January 1, 2010 to September 22, 2010, computed to be \$879,988 by Marine Polymer's expert, is necessary to compensate Marine Polymer for HemCon's infringement during that time.

2. Under 35 U.S.C. § 284 and prevailing case law, an award of prejudgment interest for damages accrued before September 22, 2010 is warranted. Marine Polymer's expert computed the prejudgment interest to be \$3,916,371.

3. The Court has awarded Marine Polymer post-judgment interest at a rate of 0.26 percent. Dkt. 446. Based on this, Marine Polymer's expert computed the post-judgment interest

to be \$244 per day, provided the judgment is paid within one year of judgment.

4. The Court also entered a permanent injunction against further infringement by HemCon (Dkt. 439), which is currently administratively stayed by the Federal Circuit. Marine Polymer is entitled to damages for infringement during this stay, computed by its expert to be \$3,553 per day.

5. A memorandum of law, incorporated herein by reference, is submitted along with this Motion.

6. Pursuant to Local Rule 7.1(c), a good faith attempt has been made to obtain concurrence in the relief sought in this motion. HemCon has not yet advised of its position on the relief requested in the motion.

WHEREFORE, Marine Polymer respectfully requests that this Honorable Court:

A. Grant Marine Polymer damages for HemCon's infringement from January 1, 2010 through the September 22, 2010 judgment, in the amount of \$879,998;

B. Grant Marine Polymer prejudgment interest, in the amount of \$3,916,371;

C. Grant Marine Polymer post-judgment interest in the amount of \$244 per day, provided the judgment is paid within one year of judgment;

D. Grant Marine Polymer post-judgment damages for HemCon's continued infringement during the stay of the injunction, in the amount of \$3,553 per day; and

E. Grant to Marine Polymer such other and further relief as this Court deems just, equitable, and proper.

Date: October 20, 2010

Respectfully submitted,

/s/ Jonathan M. Shirley

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CERTIFICATE OF SERVICE

I, Jonathan M. Shirley, hereby certify that I caused the foregoing MARINE POLYMER'S RULE 59(e) MOTION TO AMEND THE JUDGMENT to be served upon the following via electronic transmission in accordance with the Court's Administrative Procedures for Electronic Case Filing pursuant to L.R. 5.4(a) on October 20, 2010.

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